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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/711,239

09/03/2004

Hari Hariharan

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27061

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02/23/2007

ZIOLKOWSKI PATENT SOLUTIONS GROUP, SC (GEMS)

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EXAMINER

VAUGHN, MEGANN E

ART UNIT

PAPER NUMBER

2859

MAIL DATE

DELIVERY MODE

02/23/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/711,239	Applicant(s) HARIHARAN ET AL.	
	Examiner Megann E. Vaughn	Art Unit 2859	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 January 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: _____.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
 13. ☒ Other: See Continuation Sheet.


Diego Gutierrez
Supervisory Patent Examiner
Technology Center 2800

Continuation of 11. does NOT place the application in condition for allowance because: The request for reconsideration and/or the arguments regarding the restriction requirement between claims 1-8 and 9-20 (invention I and invention II respectively) are not persuasive. Applicant argues on page 2 of the Remarks that invention I is generic to invention II, one reason being because the claims of invention II (9-20) require all the limitations of claim 1. This argument is not persuasive because invention II describes a computer program and a method that does not require all of the limitations of claim 1, for instance, a RF switch. Furthermore, applicant's arguments that claim 1 is generic are not persuasive since the term "generic" is used when an election of species is involved, which is not the case here since invention I and II were restricted as directed to a process and apparatus for its practice. Moreover, applicant should note that claim 1 has not been found allowable since it was rejected under 35 USC 102(b) as stated in the previous office action mailed on 11/17/2006. Applicant further argues on pages 4-5 of the Remarks that the restriction is improper because the "examiner fails to provide a reasonable example that recites a material difference." This argument is not persuasive because as the applicant states on page 4 of the remarks, the methods described in claims 9 and 15 are "but one way to reduce ringing artifacts from amplitude decay", which supports the Examiner's original position that invention I could be used to practice another materially different process such as a method that uses some of the other ways implied by the applicant but not stated in claims 9 and 15. Such as, a method of MR imaging wherein the flip angle is determined without the use of a maximum echo amplitude set equal to a target/desired amplitude, and instead uses a particular equation to calculate the flip angle, such as the equation suggested in LeRoux et al (US 5345176).

Continuation of 13. Other: Applicant's Petition under 37 CFR 1.144 seeking supervisory review of restriction requirement has been treated as a Request for supervisory review of the restriction requirement. Applicant's request for supervisory review has been granted. Supervisory Patent Examiner Diego Gutierrez has reviewed the request and this action as evidenced by his signature.